



UNITED STATES DEPARTMENT OF COMMERCE
International Trade Administration
Washington, D.C. 20230

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Sunset Review
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March 3, 2009

MEMORANDUM TO: Ronald K. Lorentzen
Acting Assistant Secretary
for Import Administration

FROM: John M. Andersen
Acting Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations

RE: Issues and Decision Memorandum for the Final Results in the
Expedited Sunset Review of the Antidumping Duty Order on
Malleable Cast Iron Pipe Fittings from the People's Republic of
China

Summary

In the sunset review of the antidumping duty order on malleable cast iron pipe fittings from the People's Republic of China ("PRC"), domestic interested parties have submitted an adequate substantive response. No respondent interested party has submitted a substantive response. In accordance with our analysis of the domestic interested parties'¹ adequate substantive response, we recommend that you approve the positions describe in the instant memorandum. The following is a complete list of issues in the instant sunset review for which we received a substantive response:

1. Likelihood of continuation or recurrence of dumping; and
2. Magnitude of the dumping margins likely to prevail.

Background

On December 12, 2003, the Department of Commerce ("Department") issued an antidumping duty order ("Order") on imports of malleable cast iron pipe fittings ("MCP") from the PRC.² The following margins were established by the Department in the Order:

¹ Anvil International, Inc. and Ward Manufacturing, Inc. (collectively "domestic interested parties").

² See Antidumping Duty Order: Certain Malleable Iron Pipe Fittings From the People's Republic of China, 68 FR 69376 (December 12, 2003).



Exporter/Manufacturer	Margin (percent)
Beijing Sai Lin Ke Hardware Co. Ltd. ("SLK")	15.92
Langfang Pannext Pipe Fitting Co., Ltd.	7.35
Chengde Malleable Iron General Factory ("Chengde")	11.18
SCE Co., Ltd.	11.18
Jinan Meide Casting Co., Ltd.	11.31
PRC-Wide	111.36

The Department conducted one administrative review prior to the instant sunset review. The following margins were established by the Department in the December 2, 2003, through November 30, 2004, administrative review ("AR1")³:

Exporter/Manufacturer	Margin (percent)
SLK and LDR Industries, Inc. ("LDR")	14.69 ⁴
Langfang Pannext Pipe Fitting Co., Ltd.	6.95
Chengde	81.64
SCE Development (Canada) Co.	53.64 ⁵
PRC-wide rate	111.36

The Department rescinded the December 1, 2004, through November 30, 2005, administrative review based on the timely withdrawal of a request for review submitted by LDR and SLK.⁶ The Department also rescinded the December 1, 2005, through November 30, 2006, administrative review based on the timely withdrawal of a request for review submitted by SLK and Mueller Comercial de México, D. de R.L. de C.V.⁷

On November 3, 2008, the Department published the notice of initiation of the first sunset review of the Order on MCP from the PRC pursuant to section 751(c) of the Tariff Act of 1930, as amended ("Act").⁸ On November 11, 2008, the Department received a notice of intent to participate from domestic interested parties within the deadline specified in 19 CFR 351.218(d)(1)(i).⁹ The domestic interested parties claimed interested party status as domestic

³ See Malleable Iron Pipe Fittings From the People's Republic of China: Final Results of Antidumping Duty Administrative Review, 71 FR 37051 (June 29, 2006).

⁴ On August 8, 2006, the Department re-assigned SLK and LDR a weighted-average margin of 9.24% due to ministerial errors. See Malleable Iron Pipe Fittings From the People's Republic of China: Amended Final Results of Antidumping Duty Administrative Review, 71 FR 45016 (August 8, 2006).

⁵ SCE Co., Ltd. was referred to as SCE Development (Canada) Co., Ltd. during AR1. SCE Co., Ltd. and SCE Development (Canada) Co., Ltd. is the same company and is hereafter referred to as "SCE".

⁶ See Rescission of Antidumping Duty Administrative Review: Certain Malleable Iron Pipe Fittings From the People's Republic of China, 71 FR 14500 (March 22, 2006).

⁷ See Malleable Cast Iron Pipe Fittings from the People's Republic of China: Notice of Rescission of Antidumping Duty Administrative Review, 72 FR 9731 (March 5, 2007).

⁸ See Initiation of Five-year ("Sunset") Review, 73 FR 65292 (November 3, 2008).

⁹ See Letter from domestic interested parties titled, "Malleable Cast Iron Pipe Fittings from the People's Republic of

producers of MCP in the United States under section 771(9)(C) of the Act. On December 2, 2008, the Department received a substantive response from the domestic interested parties within the deadline specified in 19 CFR 351.218(d)(3)(i).¹⁰ The Department did not receive a response from any respondent interested parties to this proceeding. As a result, pursuant to section 751(c)(3)(B) of the Act and 19 CFR 351.218(e)(1)(ii)(C)(2), the Department determined to conduct an expedited review of the Order.¹¹

Legal Framework

In accordance with section 751(c)(1) of Act, the Department conducts a sunset review to determine whether revocation of an antidumping duty order would likely lead to continuation or recurrence of dumping. Sections 752(c)(1)(A) and (B) of the Act provide that, in making these determinations, the Department shall consider both the weighted-average dumping margins determined in the investigation and subsequent reviews as well as the volume of imports of the subject merchandise for the period before and after, the issuance of the antidumping duty order. The Department normally determines that revocation of an antidumping duty order is likely to lead to continuation or recurrence of dumping when: (a) dumping continued at any level above *de minimis* after the issuance of the order; (b) imports of the subject merchandise ceased after the issuance of the order; or (c) dumping was eliminated after the issuance of the order and import volumes for the subject merchandise declined significantly.¹² It is the Department's practice to use as a base period of import volume comparison the one-year period immediately preceding the initiation of the investigation rather than the level of pre-order import volumes as the initiation of an investigation may dampen import volumes and thus skew comparison.¹³

In addition, section 752(c)(3) of the Act states that the Department shall provide the International Trade Commission ("ITC") the magnitude of the margin of dumping likely to prevail if the order were revoked. Generally, the Department selects the margin(s) from the final determination in the original investigation as this is the only calculated rate that reflects the behavior of exporters without the discipline of an order or suspension agreement in place.¹⁴ However, the Department may use a rate from a more recent review where the dumping margin increased as this rate may

China," dated November 11, 2008.

¹⁰ See Letter from domestic interested parties titled, "Malleable Cast Iron Pipe Fittings from the People's Republic of China: Substantive Response to Notice of Initiation," dated December 2, 2008 ("Substantive Response").

¹¹ See Memorandum to the File titled, "Adequacy Determination: Sunset Review of the Antidumping Duty Order on Malleable Cast Iron Pipe Fittings from the People's Republic of China", date January 13, 2009.

¹² See, e.g., Folding Gift Boxes from the People's Republic of China: Final Results of the Expedited Sunset Review of the Antidumping Duty Order, 72 FR 16765 (April 5, 2007), and accompanying Issues and Decision Memorandum at Comment 1; see also Pure Magnesium in Granular Form from the People's Republic of China: Final Results of the Expedited Sunset Review of the Antidumping Duty Order, 72 FR 5417 (February 6, 2007), and accompanying Issues and Decision Memorandum at Comment 1.

¹³ See Stainless Steel Bar from Germany: Final Results of the Sunset Review of the Antidumping Duty Order, 72 FR 56985 (October 5, 2007), and accompanying Issues and Decision Memorandum at Comment 1 ("Stainless Bar from Germany Final").

¹⁴ See, e.g., Persulfates From the People's Republic of China: Notice of Final Results of Expedited Second Sunset Review of Antidumping Duty Order, 73 FR 11868 (March 5, 2008) and accompanying Issues and Decision Memorandum at Comment 2.

be a better representative of a company's behavior in the absence of an order (e.g., where a company increases dumping to maintain or increase market share with an order in place).¹⁵ Additionally, pursuant to section 752(c)(4)(A) of the Act, a dumping margin of "zero or de minimis shall not by itself require" that the Department determine that revocation of an antidumping duty order would not be likely to lead to a continuation of recurrence of sales at less than fair value.

Analysis

1. Likelihood of continuation or recurrence of dumping

Domestic Interested Parties' Comments

The domestic interested parties assert that the Department should consider the weighted-average dumping margins determined in the investigation and subsequent AR1, noting that the latter demonstrates continued dumping of MCP by PRC companies.¹⁶ The domestic interested parties also emphasize that the margin rates for Chengde and SCE increased as a result of the AR1.¹⁷ The domestic interested parties maintain that, as stated in the Statement of Administrative Action: "If companies continue to dump with the discipline of an order in place, it is reasonable to assume that dumping would continue if the discipline were removed."¹⁸ According to the domestic interested parties, the trends in the antidumping duty margins of MCP from the PRC, subsequent to the imposition of the Order, lead to the conclusion that dumping would continue or recur should the Order be revoked.

Department Position

Drawing on the guidance provided in the legislative history accompanying the Uruguay Round Agreements Act ("URAA"),¹⁹ the Department determines whether revocation of an antidumping duty order is likely to lead to continuation or recurrence of dumping based on the criteria as stated above. In this case, the Department found dumping at above de minimis levels in the administrative reviews it has conducted since the original antidumping duty investigation (i.e., AR1). Additionally, the Department found that the margins assigned to Chengde and SCE increased significantly as a result of the AR1. Further, the margin of 111.36 percent for the PRC-wide entity is in effect for all exporters of MCP from the PRC except for those companies that have their own rate.

¹⁵ See, e.g., Stainless Steel Bar from Germany; Preliminary Results of the Sunset Review of Antidumping Duty Order, 72 FR 29970 (May 30, 2007) ("Stainless Bar from Germany Prelim"), as corrected in 72 FR 31660 (June 7, 2007) (unchanged in Stainless Bar from Germany Final).

¹⁶ See Substantive Response at page 5.

¹⁷ Id.

¹⁸ Id. citing Statement of Administrative Action, H.R. Doc. No. 103-316, vol. 1, 890 (1994) ("SAA") at 890.

¹⁹ See, SAA accompanying the URAA, at 889; House Report, H. Rep. No. 103-826, pt. 1 (1994); and Senate Report, S. Rep. No. 103-412 (1994).

Consistent with section 752(c)(1)(B) of the Act, the Department also considers the volume of imports of subject merchandise before and after issuance of the order. In reviewing import statistics obtained from the ITC Trade DataWeb, the Department found that United States imports of MCP from the PRC increased from the 2001 pre-Order period levels in comparison to the post-Order period levels. See Attachment 1. Also, the Department notes that the level of imports of MCP from the PRC fluctuated in volume during the period of the instant sunset review, and that imports are now higher in volume than before the Order was put in place. See Attachment 1. The increase in volume of imports of MCP from the PRC in conjunction with the findings of continued dumping during the AR1 suggests an affirmative likelihood of continued or recurring dumping should the Order be revoked.

In sum, the ITC Trade Data Web demonstrates that imports of MCP from the PRC have increased since the placement of the Order. Further, AR1 confirms that PRC companies have continued to dump notwithstanding the discipline of the Order in place. The Department finds that the existence of dumping margins, even with the Order in place, is highly probative of the likelihood of continuation or recurrence of dumping if the Order were to be revoked. Therefore, the Department determines that dumping would likely continue or recur if the Order were revoked.

2. Magnitude of the Dumping Margins Likely to Prevail

Interested Party Comments

The domestic interested parties argue that the Department should provide the margin rates from the AR1 to the ITC. The domestic interested parties noted that all five companies reviewed in AR1 received new margins to reflect the companies' continued dumping.²⁰ The domestic interested parties additionally note that imports of MCP from the PRC initially decreased with the filing of the Petition but then increased since the Order.²¹

Department Position

Normally the Department will provide to the ITC the company-specific margin from the investigation for each company. See Eveready Battery Co. v. United States, 77 F. Supp. 2d 1327, 1333 (CIT 1999). For companies not investigated specifically, or for companies that did not begin shipping until after the order was issued, the Department normally will provide a margin based on the all-others rate from the investigation. See Certain Hot-Rolled Carbon Steel Flat Products from Argentina, the People's Republic of China, India, Indonesia, Kazakhstan, Romania, South Africa, Taiwan, Thailand, and Ukraine; Final Results of Expedited Sunset Reviews of the Antidumping Duty Orders, 71 FR 70506 (December 5, 2006), and accompanying Issues and Decision Memorandum at Comment 2. The Department's preference for selecting a margin from the investigation is based on the fact that it is the only calculated rate that reflects the behavior of manufacturers, producers, and exporters without the discipline of an order or

²⁰ See Substantive Response at pages 4-6.

²¹ See Substantive Response at page 7.

suspension agreement in place. Id. Under certain circumstances, however, the Department may select a more recently calculated margin to report to the ITC. See Section 752(c)(3) of the Act. See also Final Results of Full Sunset Review: Aramid Fiber Formed of Poly Para-Phenylene Terephthalamide From the Netherlands, 65 FR 65294 (November 1, 2000), and accompanying Issues and Decision Memorandum at Comment 3 (“Margin Likely to Prevail”).

If dumping margins have declined over the life of the order and imports have remained steady or increased, the Department may conclude that exporters are likely to continue dumping at the lower rates found in a more recent review. See id. Also, the Department will normally analyze company-specific export levels both prior to the order as well as since the order was put in place. See id. See also Stainless Bar from Germany Prelim, as corrected in 72 FR 31660 (June 7, 2007), unchanged in Stainless Bar from Germany Final. The Department completed one administrative review resulting in the new margins since the issuance of the Order, and the margin levels fluctuated, increasing for some companies and decreasing for others. In addition, there is no information on the record that addresses company-specific export levels. The domestic interested parties have not provided an argument, within the guidelines above, that the margins calculated in the original investigation are not the best indication of the margins likely to prevail if the Order were revoked. The Department finds that the margins calculated in the original investigation are the best indication of the margins likely to prevail if the Order were revoked because the antidumping duty rates from the investigation reflect the behavior of manufacturers, producers, and exporters without the discipline of an order in place.

Therefore, consistent with section 752(c)(3) of the Act, the Department will report to the ITC the corresponding individual rates and the PRC-wide rate from the original investigation as noted in the “Final Results of Review” section, below.

Final Results of Review

We have determined that revocation of the Order on MCP from the PRC would likely lead to continuation or recurrence of dumping at the following weighted-average percentage margins:

Exporter/Manufacturer	Margin (percent)
SLK and LDR	15.92
Langfang Pannext Pipe Fitting Co., Ltd.	7.35
Chengde	11.18
SCE	11.18
Jinan Meide Casting Co., Ltd.	11.31
PRC-Wide	111.36

Attachment I: ITC Trade Data Web of MCP from the PRC

Annual + Year-To-Date Data from Jan – Nov

HTS Number	2001	2002	2003	2004	2005	2006	2007	2008 YTD	Percent Change YTD2007 - YTD2008
	<i>In 1,000 Units of Quantity (kilograms)</i>								
7307199060	8,754	14,056	12,618	14,908	17,532	20,462	18,000	17,588	-2.30%
7307199080	2,998	4,355	3,332	4,023	5,366	4,937	3,530	3,454	-2.10%
7307199030	443	467	570	401	490	781	1,209	1,585	31.10%
Total	12,195	18,878	16,520	19,333	23,388	26,180	22,739	22,628	-0.50%

Sources: Data on this site have been compiled from tariff and trade data from the U.S. Department of Commerce and the U.S. International Trade Commission.

Recommendation

Based on our analysis of the substantive response received, we recommend adopting the above positions. If this recommendation is accepted, we will publish the final results of this sunset review in the *Federal Register*.



Ronald K. Lorentzen
Acting Assistant Secretary
for Import Administration



(Date)